

## PATENT COOPERATION TREATY

## PCT

## INTERNATIONAL SEARCH REPORT

(PCT Article 18 and Rules 43 and 44)

Applicant's or agent's file reference S102-09	<b>FOR FURTHER ACTION</b> see Form PCT/ISA/220 as well as, where applicable, item 5 below.	
International application No. PCT/US2004/032685	International filing date (day/month/year) 05/10/2004	(Earliest) Priority Date (day/month/year) 22/10/2003
Applicant  CHOCOVISION CORPORATION		

This International Search Report has been prepared by this International Searching Authority and is transmitted to the applicant according to Article 18. A copy is being transmitted to the International Bureau.

This International Search Report consists of a total of 4 sheets.

☒ It is also accompanied by a copy of each prior art document cited in this report.

**1. Basis of the report**

- a. With regard to the **language**, the international search was carried out on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.

☐ The international search was carried out on the basis of a translation of the international application furnished to this Authority (Rule 23.1(b)).

- b. ☐ With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, see Box No. I.

2. ☐ **Certain claims were found unsearchable** (See Box II).

3. ☐ **Unity of invention is lacking** (see Box III).

**4. With regard to the title,**

☒ the text is approved as submitted by the applicant.

☐ the text has been established by this Authority to read as follows:

**5. With regard to the abstract,**

☒ the text is approved as submitted by the applicant.

☐ the text has been established, according to Rule 38.2(b), by this Authority as it appears in Box No. IV. The applicant may, within one month from the date of mailing of this international search report, submit comments to this Authority.

**6. With regard to the drawings,**

- a. the figure of the **drawings** to be published with the abstract is Figure No. 3

☒ as suggested by the applicant.

☐ as selected by this Authority, because the applicant failed to suggest a figure.

☐ as selected by this Authority, because this figure better characterizes the invention.

- b. ☐ none of the figures is to be published with the abstract.

A. CLASSIFICATION OF SUBJECT MATTER  
IPC 7 A23G1/18

According to International Patent Classification (IPC) or to both national classification and IPC

## B. FIELDS SEARCHED

Minimum documentation searched (classification system followed by classification symbols)  
IPC 7 A23G.

Documentation searched other than minimum documentation to the extent that such documents are included in the fields searched

Electronic data base consulted during the international search (name of data base and, where practical, search terms used)

EPO-Internal

## C. DOCUMENTS CONSIDERED TO BE RELEVANT

Category *	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
X	US 4 907 502 A (SNYDER, JR. ET AL) 13 March 1990 (1990-03-13) cited in the application column 7, line 49 - column 8, line 41; claims 1,10	1,6,11
X	US 4 706 558 A (SNYDER, JR. ET AL) 17 November 1987 (1987-11-17) cited in the application column 6, line 37 - column 7, line 28; claim 5; figures 1,5b	1,6,11
A	GB 1 286 486 A (KREUTER & CO. KG) 23 August 1972 (1972-08-23) page 6, line 59 - page 7, line 53; claim 16	1,6
	----- -/--	

☒ Further documents are listed in the continuation of box C.☒ Patent family members are listed in annex.

## \* Special categories of cited documents :

- \*A\* document defining the general state of the art which is not considered to be of particular relevance
- \*E\* earlier document but published on or after the international filing date
- \*L\* document which may throw doubts on priority claim(s) or which is cited to establish the publication date of another citation or other special reason (as specified)
- \*O\* document referring to an oral disclosure, use, exhibition or other means
- \*P\* document published prior to the international filing date but later than the priority date claimed

- \*T\* later document published after the international filing date or priority date and not in conflict with the application but cited to understand the principle or theory underlying the invention
- \*X\* document of particular relevance; the claimed invention cannot be considered novel or cannot be considered to involve an inventive step when the document is taken alone
- \*Y\* document of particular relevance; the claimed invention cannot be considered to involve an inventive step when the document is combined with one or more other such documents, such combination being obvious to a person skilled in the art.
- \*&\* document member of the same patent family

Date of the actual completion of the international search

11 February 2005

Date of mailing of the international search report

01/03/2005

Name and mailing address of the ISA

European Patent Office, P.B. 5818 Patentlaan 2  
NL - 2280 HV Rijswijk  
Tel. (+31-70) 340-2040, Tx. 31 651 epo nl,  
Fax: (+31-70) 340-3016

Authorized officer

Gaiser, M

## INTERNATIONAL SEARCH REPORT

International Application No

PCT/US2004/032685

## C.(Continuation) DOCUMENTS CONSIDERED TO BE RELEVANT

Category *	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
A	US 4 238 516 A (KREUTER, WALTER) 9 December 1980 (1980-12-09) column 10, line 63 - column 11, line 7; claim 1; figures 4-8,16 -----	1

# INTERNATIONAL SEARCH REPORT

Information on patent family members

International Application No

PCT/US2004/032685

Patent document cited in search report		Publication date	Patent family member(s)	Publication date
US 4907502	A	13-03-1990	US 4706558 A	17-11-1987
US 4706558	A	17-11-1987	EP 0314834 A1	10-05-1989
			US 4907502 A	13-03-1990
GB 1286486	A	23-08-1972	NONE	
US 4238516	A	09-12-1980	DE 2450515 A1	29-04-1976
			CH 596774 A5	15-03-1978
			GB 1517788 A	12-07-1978

# PATENT COOPERATION TREATY

From the  
INTERNATIONAL SEARCHING AUTHORITY

# PCT

To:

see form PCT/ISA/220

## WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY (PCT Rule 43bis.1)

Date of mailing  
(day/month/year) see form PCT/ISA/210 (second sheet)

Applicant's or agent's file reference  
see form PCT/ISA/220

**FOR FURTHER ACTION**  
See paragraph 2 below

International application No.  
PCT/US2004/032685

International filing date (day/month/year)  
05.10.2004

Priority date (day/month/year)  
22.10.2003

International Patent Classification (IPC) or both national classification and IPC  
A23G1/18

Applicant  
CHOCOVISION CORPORATION

### 1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☐ Box No. II Priority
- ☒ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

### 2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA"). However, this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of three months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

### 3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA:



European Patent Office  
D-80298 Munich  
Tel. +49 89 2399 - 0 Tx: 523656 eprmu d  
Fax: +49 89 2399 - 4465

Authorized Officer

Gaiser, M

Telephone No. +49 89 2399-2383



**WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY**

International application No.  
PCT/US2004/032685

---

**Box No. I Basis of the opinion**

---

1. With regard to the **language**, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.  
☐ This opinion has been established on the basis of a translation from the original language into the following language , which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).
2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
  - a. type of material:  
☐ a sequence listing  
☐ table(s) related to the sequence listing
  - b. format of material:  
☐ in written format  
☐ in computer readable form
  - c. time of filing/furnishing:  
☐ contained in the international application as filed.  
☐ filed together with the international application in computer readable form.  
☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

International application No.  
PCT/US2004/032685

**Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability**

The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non obvious), or to be industrially applicable have not been examined in respect of:

- ☐ the entire international application,
- ☒ claims Nos. 6-15

because:

- ☐ the said international application, or the said claims Nos. relate to the following subject matter which does not require an international preliminary examination (*specify*):
- ☒ the description, claims or drawings (*indicate particular elements below*) or said claims Nos. 6-15 are so unclear that no meaningful opinion could be formed (*specify*):  
**see separate sheet**
- ☐ the claims, or said claims Nos. are so inadequately supported by the description that no meaningful opinion could be formed.
- ☐ no international search report has been established for the whole application or for said claims Nos.
- ☐ the nucleotide and/or amino acid sequence listing does not comply with the standard provided for in Annex C of the Administrative Instructions in that:
  - the written form ☐ has not been furnished
  - ☐ does not comply with the standard
  - the computer readable form ☐ has not been furnished
  - ☐ does not comply with the standard
- ☐ the tables related to the nucleotide and/or amino acid sequence listing, if in computer readable form only, do not comply with the technical requirements provided for in Annex C-*bis* of the Administrative Instructions.
- ☐ See separate sheet for further details

**WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY**

International application No.  
PCT/US2004/032685

---

**Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

---

1. Statement

Novelty (N)	Yes: Claims	2,3,5
	No: Claims	1,4
Inventive step (IS)	Yes: Claims	2,3,5
	No: Claims	1,4
Industrial applicability (IA)	Yes: Claims	1-5
	No: Claims	

2. Citations and explanations

**see separate sheet**



**Re Item III.**

1. Independent claims 6 and 11 define subject-matter that cannot clearly be identified. While said claims appear to relate to an apparatus, it is not clear whether the complete apparatus is to be defined, or only parts thereof (Article 6 PCT).
2. Dependent claims 7-10 and 15 are directly or indirectly dependent on claim 6, which is not clear. Therefore, the subject-matter of these claims is not clear, either (Article 6 PCT).

**Re Item V.**

- 1 The following document is referred to in this communication:  
D1 : US 4 907 502 A (SNYDER, JR. ET AL) 13 March 1990 (1990-03-13)
- 2 INDEPENDENT CLAIM 1
  - 2.1 The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claim 1 is not new in the sense of Article 33(2) PCT.  
Document D1 discloses an apparatus for tempering chocolate comprising a bowl, a baffle, heating means, means for causing rotation, cooling means and means for sensing the temperature of the molten chocolate as defined in claim 1. Furthermore, in a preferred embodiment the apparatus known from D1 is disclosed comprising a microprocessor, which microprocessor controls the heating and cooling, and which starts and stops the rotation of the bowl (see column 7, line 49 - col. 8, l. 41; claims 1 & 10).
- 3 DEPENDENT CLAIMS 2-5

Dependent claims 2-5 are only allowable when related to an allowable independent claim. However, at least the features of claim 4 appear to already known from D1, and are thus not new (Article 33(2) PCT).